

ENTERED

October 28, 2020

David J. Bradley, Clerk

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
BROWNSVILLE DIVISIONCORINA CAMPOS,
Plaintiff,

v.

SELECT PORTFOLIO
SERVICING, INC., *et al.*,
Defendants.§
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CIVIL ACTION NO. 1:20-cv-22

ORDER

On April 16, 2020, the Magistrate Judge ordered Plaintiff's counsel to show cause why he should not be sanctioned for filing a meritless lawsuit to prevent an otherwise lawful foreclosure. (Doc 4) In that order, the Magistrate Judge stated that counsel could satisfy the show cause order by executing a voluntary dismissal of the case. (*Id.*) Plaintiff's counsel did not file a response to the show cause order.

On October 1, 2020, the Magistrate Judge ordered the Defendants to file an affidavit concerning the attorney fees incurred in this case to facilitate the Court's consideration of the appropriate sanctions. (Doc 7) The Magistrate Judge again noted that if Plaintiff's counsel concluded that the case was legally unsupportable and voluntarily dismissed the case, the Court would "no longer consider any sanctions" and would "consider the matter closed." (*Id.*)

On October 23, 2020, the Plaintiff filed a stipulation of dismissal with prejudice. (Doc. 9) The Defendants did not agree to the stipulation.

The Court considers the Plaintiff's stipulation to be a motion for voluntary dismissal made pursuant to FED. R. CIV. P. 41(a)(2). "[A]s a general rule, motions for voluntary dismissal should be freely granted unless the non-moving party will suffer some plain legal prejudice other than the mere prospect of a second lawsuit." *Elbaor v. Tripath Imaging, Inc.*, 279 F.3d 314, 317 (5th Cir. 2002).

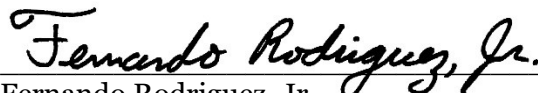
The Defendants filed a response to the Plaintiff's motion for voluntary dismissal. (Doc. 11) The Defendants believe that Plaintiff and counsel should be sanctioned for not responding to the two show cause orders and for filing a meritless lawsuit. The Defendants did state that if the Court was not inclined to sanction Plaintiff or her counsel, it did not oppose the dismissal.

Given that the Magistrate Judge twice informed the Plaintiff's counsel that the show cause order would be satisfied with a voluntary dismissal, the Court considers the show cause to be satisfied. No sanctions shall be issued. Accordingly, it is:

ORDERED that the motion for voluntary dismissal filed by Plaintiff Corina Campos is **GRANTED**; and

ORDERED that this case be dismissed with prejudice to refiling. Each party shall bear its own fees and costs.

SIGNED this 28th day of October, 2020.



Fernando Rodriguez, Jr.
United States District Judge